



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

ERIC A VANDERWERFF DC

**Respondent Name**

TARRANT COUNTY HOSPITAL DISTRICT

**MFDR Tracking Number**

M4-14-1704-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

FEBRUARY 10, 2014

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "We are exempt from the limitation of 3 FCEs per compensable injury, because these FCEs that we are REQUIRED to perform, as per the ODG (which is required by the DWC's Rules), are exempted by §134.202...Furthermore, because these FCEs were performed as required by the DOG, and because we are ordered by the Division to follow the ODG in Rule §137.100, all of our FCEs are also allowed to last for up to four hours per test."

**Amount in Dispute:** \$244.92

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary Dated March 5, 2014:** "Carrier issued reimbursement in the amount of \$436.88. The reductions were based upon the applicable fee guidelines. Carrier asserts that it has correctly calculated the reimbursement in this case and that additional reimbursement is not owed."

**Response Submitted by:** Liberty Mutual Insurance

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 8, 2013	CPT Code 97750-FC (14 units) Functional Capacity Evaluation	\$244.92	\$218.47

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204 and §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- W1-Workers compensation state fee schedule adjustment.
- 296-Service exceeds maximum reimbursement guidelines.
- OA-The amount adjusted is due to bundling or unbundling of services.
- W3-Additional payment made on appeal/reconsideration.

- 948-R04-Re-reviewed at providers request with additional information and documentation. Additional payment suggested.
- 600-Allowance based on maximum number of units allowed per fee schedule guidelines and/or service code description.
- 309-The charge for this procedure exceeds the fee schedule allowance.

## **Issues**

Is the requestor entitled to additional reimbursement for the functional capacity evaluation rendered on August 8, 2013?

## **Findings**

28 Texas Administrative Code §134.204 (g) states "The following applies to Functional Capacity Evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the Division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT Code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c)(1) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a Division ordered test; a maximum of two hours for an interim test; and, a maximum of three hours for the discharge test, unless it is the initial test. Documentation is required."

CPT code 97750 is defined as "Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes."

A review of the submitted documentation finds that the requestor billed for CPT code 97750-FC on June 21, 2013 and August 8, 2013. The Division contacted the respondent's representative to ascertain if the disputed test was the interim test or the discharge test. Ms. Rhea Rettke indicated that "I am unable to locate any additional FCE reports." Therefore, the dispute test is the discharge test.

Per 28 Texas Administrative Code §134.204 (g), the disputed FCE was the discharge test with reimbursement of a maximum of three hours.

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2013 DWC conversion factor for this service is 55.3.

The Medicare Conversion Factor is 34.023

Review of Box 32 on the CMS-1500 the services were rendered in zip code 75061 in Irving, Texas. Per Medicare the provider is reimbursed using the locality of Dallas, Texas.

The Medicare Participating amount for code 97750 is \$33.60/15 minutes.

Using the above formula, the Division finds the following:

Code	No. of Units Billed	No. of Units Allowed Per Rule 134.204(g)	MAR	Amount Paid	Amount Due
97750-FC	14	12 for Discharge Test	\$655.35	\$436.88	\$218.47

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$218.47.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$218.47 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

### **Authorized Signature**

Signature	Medical Fee Dispute Resolution Officer	4/11/2014 Date
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### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**